UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1996/16/Add.1
27 February 1996

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-second session
Item 3 of the provisional agenda

ORGANIZATION OF THE WORK OF THE SESSION

Initial report on the human rights situation in Burundi submitted by the Special Rapporteur, Mr. Paulo Sérgio Pinheiro, in accordance with Commission resolution 1995/90

Addendum

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GE.96-10750 (E)

Introduction

1. This document is an addendum to the report (E/CN.4/1996/16) that the Special Rapporteur on the human rights situation in Burundi will be submitting to the Commission on Human Rights at its fifty-second session, in accordance with Commission resolution 1995/90. This addendum covers the period from 1 November 1995 to 15 February 1996 and gives a conspectus of the main current features of the crisis in Burundi. The Special Rapporteur reserves the possibility of re-examining later or studying more in depth certain questions raised in his report and the accompanying addendum.

2. The first chapter of this addendum is concerned with the overall situation in Burundi; the second chapter sets forth the Special Rapporteur's observations; and the third and last chapter contains his recommendations.

3. The highly volatile political background to current events in Burundi and the gravity of the crisis gripping the country prompted the Special Rapporteur to undertake a second visit to the country from 9 to 16 January 1996 in order to continue the fruitful dialogue entered into with the Burundi authorities and with the population during his first visit in June-July 1995.

4. He announced his intentions to the Burundi authorities in a letter dated 28 November 1995, to which they gave a favourable response on 20 December 1995.

5. During his stay in Burundi the Special Rapporteur had talks with the highest political, administrative, judicial, military and religious authorities. He also met the heads of diplomatic missions accredited to Burundi, together with the Secretary-General's new Special Representative for Burundi, who had just arrived, the UNDP Resident Representative, the delegate of the High Commissioner for Refugees, and the special representative of the Secretary-General of the Organization of African Unity (OAU) and of its International Observer Mission in Burundi (OMIB). The Special Rapporteur also had exchanges of views with the members of the international Commission of Inquiry in Burundi, the chief delegate of the International Committee of the Red Cross (ICRC), members of international non-governmental organizations, and various Burundi citizens' associations.

6. The Special Rapporteur would like to thank the Burundi authorities for their kindness to him throughout his stay and for the particular care taken to facilitate his travel and ensure his safety, with the help of the counsellor assigned to the protocol office of the Ministry of External Relations and Cooperation.

7. The Special Rapporteur appreciated the outstanding contribution of the Office of the High Commissioner for Human Rights in Bujumbura to the impeccable preparation of his second visit to Burundi, and the numerous contacts afforded him among the Burundi authorities and population. The success of his mission is also largely due to the invaluable assistance in its organization and effective conduct provided by the acting Special Representative of the Secretary-General, who closely monitored the development of the situation in the country during the interval between the departure of the first Special Representative, on 10 October 1995, and the arrival of his

successor towards the end of December 1995. The Special Rapporteur warmly thanked the new Special Representative of the Secretary-General for the cordial welcome he extended to him and for all the facilities that his office accorded him during his second stay in Burundi.

8. At Bujumbura the Special Rapporteur paid a visit to Pastor Johnson, at a dispensary which he has been running since 1946, on the outskirts of the district of Kamenge, and which currently ministers to the needs of some 6,000 to 7,000 Hutu inhabitants who fled the district, in particular as a result of the evacuation operations undertaken by the Burundi army, in June 1995. He also made helicopter trips in the provinces of Murimvya and Gitega to meet the civil and military authorities, the representatives of OMIB, and the inhabitants of a colline where Tutsis and Hutus live together. At Gitega the Special Rapporteur visited the town's prison and a Tutsi displaced persons camp set up not far from the headquarters of OMIB on administration premises. He had long talks with six communal administrators, who gave him a detailed assessment of the human rights situation in their communes. He also noted the normal degree of animation characterizing the town and its market on that day.

9. On the eve of his departure on mission and upon the completion of his assignment the Special Rapporteur met, on 8 and 17 January 1996, the High Commissioner for Human Rights in Geneva to inform him of his expectations and of his evaluation of the situation. On the way back from Burundi he stopped off in Brussels on the morning of 17 January to meet, at his request, the Minister of Foreign Affairs of Belgium, the director of his cabinet and his closest associates. On 18 January 1996, in Geneva, the Special Rapporteur took part in an ad hoc meeting of the representatives of the member States of the European Union and gave a press conference to the journalists accredited to the United Nations. On the same day he attended the joint meeting of the three Special Rapporteurs on the human rights situation in Burundi, Rwanda and Zaire, convened for the purpose of exchanging views on the problems common to the region and determining areas for mutual cooperation. On 19 January 1996 the Special Rapporteur flew to New York, where he had an interview with the Secretary-General of the United Nations at the Headquarters of the Organization, followed by a meeting with journalists.

10. Later, while in Europe teaching, the Special Rapporteur took part in a round table held in connection with an information and joint planning meeting on Burundi organized in Brussels on 8 February 1996 by Concertation chrétienne for Central Africa and met the Directress of Human Rights Watch, Africa. He also took part in a press conference convened in London by the United Nations Information Centre on 16 February 1996 and in various radio and television interviews with the British Broadcasting Corporation (BBC). He also took advantage of his short stay in London to meet representatives of International Alert.

I. THE OVERALL SITUATION

A. Preliminary remarks

11. The Special Rapporteur noted a marked heightening of the tension in Burundi since his first visit in June-July 1995. The armed gangs and extremist political forces subscribing to a genocidal ideology had stepped up

their attacks against military and civilian targets throughout the country, with the result that the capital, Bujumbura, had suffered several months from frequent water-supply and electricity cuts, making the daily lives of the inhabitants increasingly difficult in the working class districts. The widespread insecurity prevailing in Burundi is compounded by the very tense atmosphere that reigns in the capital. During his stay, the Special Rapporteur's attention was brought to a number of tracts put out by Solidarité jeunesse pour la défense des Minorités (SATEDEM), an association linked to extremist groups of young Tutsi, such as "Sans Echec", calling upon the population of Bujumbura to revolt and remove from office the President of the Republic, a Hutu, by launching a new "dead town" operation. For their part, the Burundi authorities officially acknowledge that the country is in a state of war, that it must fight to win it and that "everyone must get ready to make sacrifices in the common war effort", as stated in the speeches delivered by the President of the Republic and the Prime Minister in presenting their New Year wishes.

12. The talks that the Special Rapporteur had during his second visit generally confirmed his impression that the escalation of violence observed in March 1995 had continued throughout the country during the previous six months, with the predictable consequences in terms of serious human rights violations. The frequent clashes between the army and the "assailants" or armed gangs continued to claim many victims among the women, children and old people. In the period between the end of October and the end of November 1995 alone it seems that 1,500 deaths were recorded. For the year 1995 as a whole, some estimates go as high as 10,000 to 15,000 deaths.

13. The conflict situation in Burundi is reportedly affecting some 600,000 disaster victims, whether refugees, displaced or dispersed, out of a total population of 6.4 million. 1/ Some 200,000 Burundi refugees are apparently living outside their country. The number of persons displaced within Burundi is estimated at a further 200,000. Tens of thousands of them reportedly had to abandon their homes in 1993 and 1994 to escape the massacres triggered off after the assassination of President Ndadaye. Over 100,000 people are estimated to have been killed since October 1993. These massacres of civilians, perpetrated among the Tutsi and Hutu communities alike, are apparently still going on. It seems that thousands of people are continuing to abandon their homes as a result of these massacres or from fear of new ones. 2/

14. The Special Rapporteur felt deep concern at the renewed tension that was reported to him in Burundi during November and December 1995. On 6 November, an ICRC vehicle was reportedly attacked on the road leading to Cibitoke and a local employee killed in the course of the incident. On 14 November about 450 civilians of Hutu origin allegedly lost their lives at Gasarara, in the province of Rural Bujumbura, as a result of clashes between the military and armed gangs. On 6 December 1995 a Belgian Red Cross ambulance reportedly fell into an ambush laid by "assailants" between Bujumbura and Ijenda when it was carrying a wounded soldier and two of his comrades; this incident resulted in two deaths. On the same day attacks by armed gangs were apparently launched against three districts of Bujumbura, including Mutanga-nord, a residential neighbourhood where the Tutsi and Hutu élite reside. Several houses belonging to Hutus were allegedly burnt down before the "assailants"

were driven off by the army, which then continued its operations in the neighbouring collines. For the colline of Sororezo alone, it is reckoned that between 80 and 270 persons, mostly women and children, lost their lives. Following those attacks, some 15,000 people living in these collines reportedly fled and assembled at Kiriri, around the Monument of Unity, not far from the residence of the President of the Republic. It seems that the army came and dispersed them a few days later.

15. Lastly, after at least 10 grenades had been set off on 14 December 1995 at Gitega, in the dwellings of a number of NGO representatives, and another grenade explosion had injured two expatriates working for Action internationale contre la faim (AICF), the Special Rapporteur was informed that many NGOs had terminated their activities and withdrawn to Bujumbura or Nairobi, while several agencies or institutions such as the World Food Programme (WFP), the Office of the High Commissioner for Refugees and the ICRC had decided to suspend for the time being their activities in Burundi.

16. Nevertheless, the Special Rapporteur was informed in the actual course of his visit and later in the second half of January 1996 that the situation had become calmer again and that some improvements had been made to water and electricity supplies in the country, helping towards a modest upturn in economic, industrial and commercial activities.

17. During his second visit to Burundi the Special Rapporteur found, to his very keen regret, that little or no progress had been made on certain major issues relating to his mandate. In the political sphere, apart from some very recent timid steps towards dialogue in Parliament between the members of the Front pour la démocratie au Burundi (FRODEBU) and of the Union pour le progrès national (UPRONA), some of the factions operating in allegiance to the two main parliamentary parties have apparently not yet dissociated themselves from the extremist activities of other political groupings or associations.

18. These same power relationships are manifest at the governmental level, where the very limited consultation between the country's two major forces serves only to aggravate the stagnation and paralysis gripping the entire governmental machine and thereby to accentuate the general malfunctioning that affects all the country's institutions. The constant antagonism between the office of the President of the Republic and that of the Prime Minister and the lack of cooperation which characterizes their mutual relations graphically illustrate this. Nevertheless, the Special Rapporteur was informed at the end of his visit and during the weeks that followed of certain signs of improvement in the working relations between the President's and the Prime Minister's offices that might offer hope of more effective cooperation in future. The persistent presence of the Tutsi minority in key sectors of the executive such as the judiciary, the army, education, or the economy, including the Prime Minister's office continues without there being any effective sharing of its major prerogatives with partners from the Hutu majority. And the practice of appointing to the subordinate posts under a minister officials selected alternately from one community or another, depending on the political or ethnic connections of the minister concerned, aggravates in turn the tendency to governmental ineffectiveness instead of promoting understanding between the two sides. On the contrary, the tension resulting from this state of affairs gives rise to frustrations that bode ill

for the future of Burundi, in particular within the Hutu community and among the Tutsi élite, who themselves are beset by feelings of insecurity. The end result of all these tensions is to deprive the country of democratic influences within the two communities, at the very time when it badly needs them to extricate itself from the present crisis.

19. The Special Rapporteur is convinced that the conflict tearing Burundi apart is of an essentially socio-political nature, masked by an ethnic confrontation. The present campaign of pacification conducted by the Burundi authorities in the country's various provinces is an encouraging sign betokening their will to re-enter into dialogue with populations who are often subjected to manipulation, who are denied any means of participating in the political decisions which concern them, and who are the chief victims of the excesses committed by certain elements in the army or the criminal acts perpetrated by the "assailants" or armed gangs. Nevertheless, this campaign must not blind us to the fact that those mainly responsible for the present crisis are to be found in the very corridors of power, at Bujumbura, and that the means of resolving this crisis are largely in their hands. It is up to the representatives of the UPRONA and FRODEBU parties to call a halt to the games of hide-and-seek that they play with such abandon, often through the intermediary of other, small parties, some of which are linked to various extremist groups.

B. Paralysis of the Government

20. Despite appearances, the participation of the UPRONA and FRODEBU parties in the Government has produced neither any true concerted action nor any cohabitation worthy of the name. In every Ministry the distribution of posts between the country's two major ethnic groups is reflected in a growing ineffectiveness which threatens the Government's very credibility and existence. Whereas the Convention on Governance of 10 September 1994, concluded between the country's main political forces under United Nations auspices, was to have constituted the cornerstone of this cohabitation, both sides quickly came to interpret cohabitation as being a mere mechanism for distribution of posts rather than leading to genuine power-sharing at the decision-making level in the political, economic and social sectors. Hence the very great difficulties met with in putting into effect the guiding principles of this Convention.

21. Meanwhile, the absence of FRODEBU from some key government posts reduces correspondingly the real scope of the powers conferred upon the President of the Republic and Parliament, which lack the means to exercise effective control over the policies put into effect by the key sectors of Government held by members of the Tutsi élite. Again, several ministerial portfolios are purely nominal and remain without influence over the process of decision-making in the sectors of activity assigned to them.

22. Similar distortions can be seen in the top echelons of the political parties. On the FRODEBU side, there are today fewer Tutsi representatives occupying high positions in the party. Several FRODEBU members of Parliament have left the country to join the ranks of the Conseil national pour la défense de la démocratie (CNDD), to which a good many Hutu extremists belong.

23. During his second stay in Burundi the Special Rapporteur became aware that the Convention on Governance of 10 September 1994 was no longer recognized as a credible frame of reference by the partisans of UPRONA and FRODEBU, but served rather to provide a battleground for the opposing parties. He is convinced that the essential weakness of the institutions set up by the Convention on Governance is largely due to the participation of certain opposition parties such as "Inkinzo", the Ralliement pour la démocratie et le développement économique et social (RADDES), the Alliance burundo-africaine pour le salut (ABASA), the Alliance nationale pour le droit and le développement (ANADDE) and the Parti pour la réconciliation du peuple (PRP) which, though lacking any parliamentary representation, criticize the Convention and tend to serve as a screen behind which various extremist groups can intervene in the national political arena.

24. The Special Rapporteur was relieved to find that the "dead town" operation, of which he had had a foretaste in Bujumbura at the end of his stay, and which had been organized following the defection of the above-mentioned parties calling for the replacement of the President of the Republic at the end of 1995 and the strike order issued by the SOJEDEM and other extremist groups, had not finally achieved the destabilization of the country through violence and that the situation had remained calm in the localities of Gitega and Ngozi, despite the work stoppage observed on 15 January 1996. Before leaving Burundi, the Special Rapporteur noted the firmness shown by the Burundi authorities in stationing large numbers of troops along the main roads of the capital. It remains to be seen whether these recent developments mark a real turning point in the political life of the country or whether they amount only to a delaying action.

25. On the other hand, the Special Rapporteur was disturbed to learn that those same authorities had released, on about 10 February, the President of SOJEDEM and the President of the Conseil national du personnel de l'enseignement secondaire (CONAPES), who had been the originators of many tracts calling for the removal from office of the President of the Republic, after arresting them in mid-January and thenceforth detaining them at the Mpimba central prison in Bujumbura. He hopes this decision does not mean that the Burundi judicial authorities are renouncing their intention of taking appropriate judicial action against the distributors of illicit tracts prejudicial to State security and public order. The Special Rapporteur is also very surprised that the respective Presidents of PRP and RADDES, placed under house arrest during this same period, should have had their freedom of movement restored two days before the release of the President of SOJEDEM. He further stresses that these events are closely linked to the consideration of the complaint launched by SOJEDEM with the Constitutional Court, which must shortly decide the question of the unconstitutionality of the appointment of the President of the Republic, designated under the Convention of September 1994.

C. Bias and laxity of the judiciary

26. The functioning of the Burundi judicial system has shown little improvement during the past six months. The Special Rapporteur has been informed that the number of enforced disappearances and of arbitrary arrests and imprisonments has appreciably increased. Between the end of June and the

end of November 1995 the population under arrest reportedly rose from 4,586 to 5,586 for the country as a whole. Apparently, only 903 of those detainees have undergone some form of trial and been sentenced, compared with 796 at the end of June. The percentage sentenced therefore seems to have remained stable and even declined slightly, from 17.5 per cent to 16.6 per cent.

27. The overwhelming majority of the 735 persons held at the Gitega prison are said to be of Hutu origin, as also are the 28 women detained with their 9 infants or young children in a separate facility. Women belonging to the other ethnic group are allegedly released immediately after being arrested. The Special Rapporteur also had talks with four communal administrators and teachers of Hutu origin who were arrested in the wake of the events of October 1993, with no arrest warrant in the case of at least two of them, and have since been kept in solitary confinement without undergoing any kind of investigatory or trial proceeding.

28. Meanwhile, several attempted escapes from jail, probably faked, which allegedly occurred during the period covered by this addendum are said to have resulted in the disappearance and physical elimination of a number of embarrassing eyewitnesses or of persons who took part in the assassination of President Ndadaye. Thus, during the night of 27-28 December 1995 two non-commissioned officers and two other ranks held at the Mpimba prison were reportedly shot by a prison warder when trying to escape, according to a communiqué broadcast on national radio. One of them was allegedly identified as a presumed assassin of President Ndadaye. The testimony of these various prisoners would, needless to say, have been very useful for the investigations of the international Commission of Inquiry in Burundi.

29. The Special Rapporteur notes that after nine months' debate in Parliament the bill to set up one criminal chamber per province, i.e. 15 in all for the entire country, has not been passed and that the Government has decided only to set up three criminal chambers, at Bujumbura, Gitega and Ngozi respectively, which were due to start functioning in January 1996. The judiciary has 446 members, including 381 judges and 65 government procurators, mostly Tutsis, who it seems are continuing to deal mainly with Hutu cases in the civil courts, but far more rarely deal with any criminal cases. In the view of the Special Rapporteur, this preponderance of Tutsis, however honest and competent the magistrates concerned, is not calculated to reassure the members of the other community as to the independence and impartiality of the Burundi judiciary. Moreover, the magistrates usually lack offices, typewriters and the basic documentation necessary for their functions, such as the Constitution or the Civil and Penal Codes. What is more, the Burundi Bar apparently has only 23 lawyers in the entire country to provide for the defence of accused persons, who moreover have no access to legal aid. The Special Rapporteur considers that, under such circumstances, the conditions for a fair trial are far from being ensured and that due process in Burundi is merely fictional.

30. It is to be feared that the impact produced by these criminal chambers on the accumulation of case files awaiting examination will remain minimal. At the present rate, it will take decades to consider all the cases pending, which reduces correspondingly the role that the administration of justice might play in the process of pacification and democratization of the country.

It is urgently necessary for the judiciary to become aware of the responsibilities that lie with it in this regard. The President of the Burundi Bar Association has reportedly already got into touch with several foreign bar associations to request expert evaluations and various forms of assistance (see also E/CN.4/1996/16, para. 147).

D. Challenges facing the army and security forces

31. With regard to the numerical size of the security forces, limited to some 10,000 men for the army (not 30,000 as indicated by the Special Rapporteur in the initial report) and consisting of between 3,000 and 5,000 men for the gendarmerie and the police (see E/CN.4/1996/16, paras. 29 and 33), the Special Rapporteur does not wish to cast doubt on the realization by the Minister of Defence, his heads of staff and their senior officers of the grave problems facing Burundi, nor on their ability to analyse the evils afflicting the country. He has, however, serious misgivings as to the real impact of the orders issued by central command on the conduct of military operations in the field. He wonders to what extent high command has the demonstrable will to take account, in its operational decisions, of the new challenges of the present situation in which the army is often confronted with the Hutu rebels in the field.

32. The Special Rapporteur believes that, despite assurances received from the Ministry of Defence, the high command of the army and security forces is having unquestionable difficulty in controlling all along the line the chain of command of the army, particularly in certain of the country's provinces. Evidence of this is provided by the information that was communicated to him by the Ministry of Defence concerning the penal action taken between October 1993 and December 1995 against 307 servicemen who had committed grave offences ranging from participation in the attempted coup d'état of October 1993 to various acts characterized as excessive use of force, murder or attempted assassination, thefts of weapons and enforced disappearances.

33. In this connection, the Special Rapporteur is deeply concerned at the fact that after the clashes that occur in the country between the Burundi army and the armed gangs there are apparently hardly ever any prisoners and very few wounded. Whereas, in the case of the armed gangs and "assailants", non-observance of the principles and rules of international humanitarian law in the civil war now being waged in Burundi is a fact that he notes and deplores, he is on the other hand shocked to find that those same principles and rules, which are generally known and taught to the military, are not observed in the operational sphere by Burundi's regular armed forces. Burundi has been party to the Geneva Conventions (1949) since as long ago as 1971 and to the two Protocols Additional to the Geneva Conventions (1977) since 1993. 3/ Consequently, the absence of prisoners makes the Special Rapporteur wonder whether systematic extermination of combatants is not the prevailing practice, in flagrant violation of the above-mentioned elementary rules and despite the patient educational work that the ICRC has been conducting with the Burundi armed forces for the past 10 years; following the events of October 1993, servicemen in the field and many civilians have been the target of particularly sustained efforts in this regard, through the medium of stage plays.

34. In this connection the Special Rapporteur was particularly shocked to learn, during his talks with persons belonging to the country's two main ethnic groups, that each side accuses the other of not sparing women, children and the old, whether it be that they use them as human shields or that by massacring such populations they can give vent to age-old, atavistic survival reflexes. 4/ He condemns with the utmost firmness such attitudes, on whosever part, and pressingly demands that respect be shown for the right to life and physical integrity of the civil populations during confrontations between the army and the "assailants" or armed gangs.

35. The Special Rapporteur has again noted no significant progress on the part of the above-mentioned general staffs in grappling energetically with the problem of broadening the base for recruitment of young Burundi servicemen or gendarmes to the entire population, in all the country's provinces, and applying to it solutions that are both imaginative and practical. He nevertheless noted that recruitment by competitive examination was regularly organized in the country's 116 communes, but that for young people a career in the army or police had lost some of its appeal in recent years, owing in particular to the currently prevailing climate of civil war and also because the very uneven coverage of educational facilities in the country does not allow children to complete their schooling or go on to the secondary level. Moreover, the army holds out little prospect of advancement for young Hutus aspiring to a military career, since other, Tutsi candidates will rise to senior posts before them. Lastly, the army appears hardly competitive in comparison with other career prospects emerging with the beginnings of democratization in the country.

36. The Special Rapporteur finds it most surprising that the office of the Secretary-General for the Coordination of Security and Defence Forces, reporting to the Prime Minister, whose establishment he announced in his initial report (E/CN.4/1996/16, para. 36) should not yet be sufficiently operational and balanced in its composition in the situation that the country is currently living through.

37. Finally, in the opinion of the Special Rapporteur, it is absolutely imperative that the Ministry of Defence should take immediate steps to eliminate the confusion that exists between the tasks entrusted to the Burundi army and to the security forces, as also between the procedures governing the activities of the military and those of the police or security services. Until now the gendarmerie, despite denials by the Ministry of Defence, has been considered de facto as a mere extension of the Burundi armed forces. The gendarmes, who begin by serving for six or seven years in the army before being assigned to their new duties in the public order or security services, are apparently ill prepared for their civilian tasks of maintaining order in urban or rural areas. They allegedly apply to those tasks campaign methods which, while justified in defending frontiers, are in most cases used against defenceless populations and are akin to techniques of repression, "combing", deterrence or so-called disarmament of the inhabitants of a neighbourhood or a colline to maintain a psychological climate of tension and fear. In the view of the Special Rapporteur, it is high time for the Burundi authorities to consider setting up a civilian body to take supreme charge of the public order and security services in support of the judicial arm, with tasks clearly distinct from those assigned to the Burundi army. There again, the

recruitment base for these public order and security forces should be fully representative of the country's various regions and of the Burundi population as a whole (see also E/CN.4/1996/16, paras. 33-35 and 157).

E. Collapse of the Burundi economy

38. The country's economic and financial resources are running out. Its main industries have suffered from the electricity shortage and are reported to be barely turning over, if they have not already ceased operating. The Special Rapporteur was informed that there is only a six months' working balance in the State treasury, out of which two months' funds have already been committed for the purchase of two large generators which have recently begun producing electricity. Some economic agents have admitted that the country's production apparatus is deeply affected. Insecurity in the provinces and the countryside has disturbed the regular crop cycle for a considerable period, leading to a dangerous fall in agricultural production and in the country's commercial activity. Burundi's basic food production is reportedly no longer sufficient to feed its population. Between 1994 and 1995 the yield of a cash crop such as coffee fell by half - from 35 or 40,000 tonnes to 20,000 tonnes.

39. This climate of insecurity has developed within an already disoriented Burundi society, which ill perceives the aims of hasty democratization and modernization, which has lost its landmarks and which for two or three decades has been deprived of the traditional remedies offered by the customary structure. In addition, Burundi's creeping balkanization has affected populations, many of them used to living together for centuries, which now seem to have been taken hostage by extremist groups of every persuasion or disoriented by mutually contradictory official pronouncements.

40. In addition, numerous Burundi citizens are said to have withdrawn the equivalent of approximately 40 per cent of the fiduciary assets of the banks. Burundi, it is claimed, is on the verge of economic and financial collapse and will soon no longer have the means to pay its civil servants and soldiers. The World Bank has reportedly denied Burundi any further financial support unless the Government makes radical changes to its current policy. Furthermore, it is said that only one bank in Brussels carries out Burundi's exchange operations, while three major Swiss merchant banks, have temporarily broken off their banking relations with Burundi.

41. The Special Rapporteur was very favourably impressed by his contacts with a number of economic agents who are determined to participate fully in their country's economic management in order to promote economic revival and the establishment of a constructive dialogue between all parties, and thereby consolidate peace, national reconciliation and democracy. He particularly appreciated the open-mindedness of those he talked with and their deep understanding of the essential issues at stake in Burundi, manifested by their refusal to participate in the mutual demonization practised by the two main ethnic groups.

F. The democratization process stalled

42. As the Special Rapporteur has already explained in his initial report (E/CN.4/1996, paras. 37-43), democratization is continuing in Burundi, albeit

under extremely difficult circumstances on account of the widespread insecurity, the economic problems, and the dangers stalking those who endeavour to set in motion a dynamic of peace and reconciliation reaching beyond ethnic tension.

43. The situation of parliamentarians remains extremely precarious, in spite of the efforts made by the Inter-Parliamentary Union to sensitize the Burundi authorities to the tragic fate of those on whose behalf it intercedes and remind them of their obligation to safeguard the country's democratic institutions. It was confirmed to the Special Rapporteur during his visit to Burundi that some 10 parliamentarians had been murdered in 1995 and that on several occasions their relatives had been molested or killed and their houses ransacked or in some cases burned. Other parliamentarians are reported to have narrowly escaped death, though seriously wounded, or to have received frequent death threats.

44. At the University of Burundi the Special Rapporteur was able to ascertain that a number of indispensable measures had been taken by the new university administration to improve the climate at the university, to encourage Hutu students to return to their lectures or take their examinations, to restrict agitation on campus and to ensure the safety of university premises. However, although a number of official investigations have been initiated, the Special Rapporteur notes that, regrettably, no administrative action has been taken against the students responsible for the June 1995 killings, either to expel them from the university or to ensure that they are no longer hiding any weapons in their rooms.

45. Local human rights and development organizations, in conjunction with women's, youth and church associations, struggle against all odds to defend the weakest and to muster all the available forces to tackle the crisis, by taking concrete steps to assist the country's sufferers, without distinction of category. The Special Rapporteur was deeply impressed, at his meetings with women's associations, by the maturity and determination they displayed in addressing Burundi's crisis and pointing the way to solutions, both within their families and in the wider community. In contrast, he noted that human rights organizations were suffering more from the crisis and experiencing difficulty in closing their ranks to clear the way for joint action.

46. The Special Rapporteur would like here to thank the Ligue des droits de l'homme (ITEKA) for the reactions and observations it submitted to him in connection with his initial report, and which he has carefully read. He would like to continue his dialogue with the Ligue during one of his forthcoming visits to Burundi. He has also taken note of the various reactions publicly expressed by the UPRONA Party following his second stay in Burundi.

47. Regarding the report of the Technical Commission on preparations for the national debate on Burundi's fundamental problems, which was published on 29 December 1995 in Bujumbura, the Special Rapporteur wishes to convey his warm congratulations to the main author and his team of assistants for the high quality of their work, the honest and accurate assessment made in the report, the specific proposals it puts forward, the prospects it outlines for the organization of the national debate, and the timetable drawn up for the conduct of the debate. The Special Rapporteur sincerely hopes that this

admirable synthesis will enable all Burundi's democratic forces to engage actively and calmly in the search for new forms of coexistence and cooperation for the good of the country and of all Burundians.

II. OBSERVATIONS

48. The Special Rapporteur cannot but reiterate the thrust of the final observations in his initial report. The dangers facing Burundi remain considerable and the situation in the country may at any time explode, entailing unbearable consequences for Burundi's population, uncontrollable mass movements within the country and at its borders, and finally to a loss of control or to a destabilization of the Great Lakes Region which would certainly be in the interests neither of Africa nor of the international community as a whole. To permit such a situation to develop would be to show scant regard for the responsibility borne by those directly concerned: Burundians, Africans - with the rulers of Burundi's neighbours in the front line - Europeans, and the other actors in the international community.

49. How long is the international community prepared to tolerate the piling-up of corpses to which the Special Rapporteur alludes at each of his press conferences? How long is it willing to allow over half a million of Burundi's six million inhabitants to number among the country's victims, displaced and dispersed persons, or refugees? The international community cannot permit certain elements of the Burundi army or security forces on the one hand and groups of rebels on the other - numbering probably from several hundred to several thousand individuals - to terrorize with impunity defenceless populations, to choose women, children or old people as their victims and sometimes to finish them off with bayonets or machetes, away from embarrassing witnesses.

50. As to the question of a possible genocide in Burundi, it is inappropriate to ask when it will occur, with the example of Rwanda obsessively present. First of all, there is no evidence that the events in Rwanda will recur under the same conditions in Burundi; secondly, what is mainly happening in Burundi is a rapid succession of deliberate criminal acts, committed throughout the country both by rebels and by certain units of the army, and from which both of Burundi's two main ethnic communities are suffering equally. In Burundi it would perhaps be more appropriate to talk of a genocide by attrition, whose scale is probably ill appreciated for lack of precise statistics on the number of combatants and civilians killed and wounded as a result of the ethnic tension between the two communities, the struggle for power, the clashes between the military and armed gangs or the reprisals of each side against the other.

51. The Special Rapporteur hereby warns the international community of the need for it to set in motion, at long last, a new dynamic of which Burundi is in desperate need, a coordinated and integrated approach to the country's problems, which he will take up in his recommendations. Although he has recently glimpsed some encouraging trends in that direction among the directing bodies of the United Nations, he cannot but express his deep frustration at the dilatoriness of the European Union in providing the funds

promised for the deployment of the five first human rights observers in Burundi, despite the agreement signed between the High Commissioner for Human Rights and the European Commission on 9 January 1996.

52. The Special Rapporteur is convinced that any delay in the deployment of the observers threatens to deprive the European Union of any further opportunity to participate in the peace and reconciliation process in Burundi. For all the reasons already set out at length in his initial report and in this addendum, Burundi is on the brink of an economic and social disaster. It is imperative for the international community to speak with a single voice and act in accordance with the responsibilities it bears.

53. In this connection, several European Powers that have played a major role in Burundi's history continue to exert indisputable influence there, a fact which lays upon them a special responsibility to persuade the Burundi authorities to put an immediate end to the killings, massacres or displacements of population in the course of evacuations of districts or of rural areas. It is also incumbent upon those countries to intervene to prevent or even punish the crimes committed by the "assailants" or armed gangs, failing which they may be accused of blatant omission or of tacit complicity with those acts.

54. At the same time, the Special Rapporteur reaffirms to the Burundi authorities his desire to continue with them the constructive dialogue initiated with many often sincere and motivated governmental representatives. However, he cautions them in no uncertain terms against the grave and real danger of the situation in Burundi getting out of hand as the result of the widespread violence, the persistent impunity, the absence of any justice worthy of the name, and of a form of democratization where extremist views alone prevail. The drift in this direction also reflects a system of education and training based on the exclusion or non-participation of tens of thousands of children and young people, the growing impoverishment of Burundians as a result of the neglect of the economy, which is going to rack and ruin, and the climate of civil war which is deliberately maintained for the benefit of a few, whichever side they are on, but to the detriment of a genuine desire for peace and reconciliation among Burundians. As long as the Tutsi élite persists in its repeated refusal to accept certain lessons from recent history, to face up to the fact that the conflict's ideological cloak in fact conceals its essentially socio-economic nature, and therefore to share political power and the country's economic resources more equitably with the majority, the Special Rapporteur is somewhat pessimistic about the country's chances of survival as it stands on the brink of an unprecedented economic disaster.

55. The Special Rapporteur reaffirms his deep conviction that there will be no salvation for Burundi until it has exorcised its past and brought to light the full facts of the attempted coup d'état of 1993, the assassination of the country's first democratically elected president and the ensuing massacres. While indeed the international Commission of Inquiry on Burundi is pursuing this task with remarkable determination and courage, the Special Rapporteur wishes to point out that much of the paralysis affecting the administration of justice is due to the fact that the judicial system is itself intimately

associated with the climate of violence and lawlessness which prevails in Burundi and is constantly fomented by the crimes of the Burundian army, of the security forces or of the armed gangs.

56. Finally, the Special Rapporteur urgently recommends the re-examination and even reactivation of certain conflict-settlement mechanisms painstakingly developed by Burundi society over the centuries, such as the Ubushingantahe and the Bashingantahe, 5/ which might help to settle many local conflicts in the collines, sectors or urban districts within a framework that offers genuine potential for mediation, for calming passions and for controlling tension, thereby paving the way towards national reconciliation.

III. RECOMMENDATIONS

57. Following his second visit to Burundi the Special Rapporteur wishes to make a number of recommendations to complete those set out in his initial report.

A. Action at the national level

58. In addition to the measures already recommended in his initial report, the Special Rapporteur strongly urges upon the Burundi authorities that they should:

(a) Publicly reiterate to the Burundi army and security forces that they will no longer tolerate summary or extrajudicial executions, enforced disappearances, arbitrary arrests and detentions, torture and degrading or inhuman treatment;

(b) Constantly remind the military and representatives of the security forces, by issuing appropriate directives, of the norms they must observe regarding fundamental human rights and international humanitarian law;

(c) Separate the missions entrusted to the army on the one hand and to the security forces on the other, by defining a precise and distinct set of responsibilities for each arm: broaden the intake and training base for both bodies by involving all the constituent parts of Burundi society, so that all the country's provinces are equitably represented;

(d) Undertake the indispensable reform of the Burundi judicial system so that judgement is handed down for all detainees awaiting trial, in conformity with national legislation and current international norms, and so that the known perpetrators of massacres, killings or other acts of violence are prosecuted, arrested and brought before the courts;

(e) Restore confidence in the Burundi judicial system by, for example, restudying and reactivating the traditional institutions of the Ubushingantahe and the Bashingantahe;

(f) Reform primary and secondary education so as to facilitate access by all children and young people from all the social strata of Burundi's population to primary school, secondary school or technical education, and university;

(g) Actively combat proliferation, trade in and sale of arms in Burundi and enact laws strictly regulating their use;

(h) Refrain in official speeches from using any language that incites to violence and ethnic hatred and from propagating a message suggesting that war is the only recourse left to Burundians for solving the country's problems;

(i) Discourage any temptation among the country's élites, the political parties, the army and the security forces to resort to force as a means of gaining power;

(j) Ensure, by energetic and effective measures, that the press and the media comply with their code of professional ethics and behave in such a way as to strengthen the ongoing democratization of Burundi rather than to undermine it;

(k) Press ahead with the national debate, subsequent to the report published by the Technical Commission on the matter at the end of December 1995, and draw therefrom lessons conducive to genuine and effective implementation of the 1994 Convention on Governance by accepting a sharing of political and economic power in the light of the result of the June 1993 ballot;

(l) Take the necessary measures, with the support in particular of the Centre for Human Rights, to develop national institutions and infrastructure for the promotion and protection of human rights;

(m) Support, with the assistance inter alia of the Centre for Human Rights, the development of the operational capacity of local and national NGOs and the media, with the aim, in particular of fostering throughout Burundi a culture of human rights, reconciliation and peace;

(n) Take steps to incorporate, with the support in particular of the Centre for Human Rights, the human rights dimension into the training programmes of the Burundian army and security forces and the Ministry of Education.

B. Action at the international level

59. It is imperative that the international community speak with a single voice in order to address a clear and coherent message to the Burundi authorities and to make them understand that it will not tolerate for a moment longer the present deplorable situation in Burundi. Were this uncompromising language to fall on deaf ears or not to bring about the hoped for results, the international community would reserve the right to adopt appropriate measures or sanctions against Burundi, in accordance with the relevant provisions of the Charter of the United Nations.

60. It is therefore incumbent upon the leading actors within the international community, both in Burundi and elsewhere, namely the accredited States, the countries of the European Union, those of the Organization of African Unity, the Secretary-General of the United Nations, his special envoys

or representatives and the Security Council, the High Commissioner for Human Rights and his office at Bujumbura, together with the various agencies of the United Nations system operating in Burundi and international non-governmental assistance organizations or humanitarian institutions active on the spot, to agree very quickly upon a coordinated and comprehensive strategy addressing the whole range of problems currently besetting Burundi, bearing always in mind the present sufferings of the Burundi population and the concern for putting an end to them.

61. Such a strategy must secure close support from the Burundi authorities, and in particular from the President of the Republic, the Prime Minister and his Government, as well as the armed forces, in order to help them restore the rule of law in Burundi and act in full conformity with the country's democratic institutions. In doing so, the strategy will be attentive to establishing a spirit of contractual relations and reciprocity between the Burundi authorities and the international community with a view to instituting a partnership conducive to results that are in the interest of all Burundians.

62. Furthermore, this strategy will seek to foster an intensified dialogue between the international community and the country's main political forces in order to settle differences and conflicts by peaceful negotiation, without resort to violence and war.

63. The strategy will also seek to combine the launching of the above-mentioned dialogue and the establishment of the rule of law in Burundi with a possibility of concrete reactivation of international loans and development projects focused on Burundi's economic and financial reconstruction, provided the Burundi authorities offer credible, tangible and verifiable evidence of progress in the problem areas of national life.

64. In the immediate future, if the international community intends to play its full role within this partnership, it absolutely must look to the strengthening of its operational presence in Burundi. This means, in particular, reinforcing the office of the Special Representative of the Secretary-General in Burundi and that of the High Commissioner for Human Rights at Bujumbura with officials of high calibre. Both offices have a decisive role to play in the strategy described above, each in its own sphere. In this connection, the Special Rapporteur was gratified to learn of the recent appointment of an envoy of the European Union in Burundi, who will also constitute an essential link in this strategy.

65. The other key element of the international community's commitment in Burundi is the immediate deployment of human rights observers, which has been awaited for months. In view of the current situation it would be desirable to send at least 100, if not more of them, in order to register and elucidate the human rights violations committed and, by their presence in all Burundi's communes, prevent their occurrence. The Special Rapporteur sincerely hopes that the activities of the observers will also help to ensure the effectiveness of the office of the Centre for Human Rights in Burundi and the development of greater synergy between the various forms of assistance provided by the Centre to improve the judicial system. In his view, the deployment of observers in the field should also be perceived by Burundians as very tangible evidence of the international community's commitment to efforts

by society at large to achieve peace, national reconciliation and a return to normal life. The agreement of the Burundi Government to the deployment and protection of observers must be a permanent objective and one of the cornerstones of any partnership between Burundi and the international community.

66. With regard to the deployment of human rights observers in the field, one consideration that cannot be passed over is that of their safety, though we quickly come up in that regard against the limitations inherent in their function. It is therefore right that the international community, in deploying them operationally in the field, should consider availing itself, for example, of the assistance that might be provided by the military personnel belonging to the Observer Mission of the Organization of African Unity in Burundi (OMIB), who are appreciated by the Burundi population and generally well accepted by the army, and who could accompany them in their movements. If such cooperation could be developed, the international community should also commit itself to considerably reinforcing the personnel of OMIB, whose present strength is only 67, and to providing them with proper logistical and communications equipment, including arms to allow them to hold off attacks involving heavy weapons. So far, OMIB has been spending US$ 1 million per year to hire some 40 already old vehicles. It would be highly desirable for the United Nations Secretariat, and in particular the Department of Peace-keeping Operations, to consider providing the logistical support urgently needed by OMIB by reassigning to it all or part of the equipment that will shortly be released from several peace-keeping operations that are about to conclude.

67. One of the recommendations made at the meeting between the three Special Rapporteurs on the Great Lakes region (Geneva, 18-19 January 1996) concerned appropriate financing for human rights operations in countries under their respective United Nations mandates. They also considered that human rights must form an integral part of a global United Nations strategy. Accordingly, any political or diplomatic strategy designed to restore peace in Burundi should give high priority to the promotion of and respect for human rights.

68. The final component of this strategy requires drastic strengthening of the human, material and financial resources granted to the international Commission of Inquiry on Burundi recently appointed by the Secretary-General, which began operating in mid-October 1995, to enable it to advance rapidly in the implementation of its mandate. Particular attention must be paid to the safety of the Commission's members, to that of witnesses who come forward to testify, and to the specific measures required for the storage on suitable premises of documents collected and for their systematic analysis.

69. Clearly, if the expected outcome of the Commission's investigations were unduly delayed, the international community should seriously consider proposing the extension to Burundi of the jurisdiction of the International Tribunal for Rwanda.

70. Among the sanctions which the international community could consider is restriction of travel abroad by Burundian leaders, the heads of political parties and their relatives, as well as by known rebels who advocate genocide.

71. Two other measures among those that could be suggested to the international community by the International Commission of Inquiry on the sale of arms are an immediate embargo on the sale and supply of arms to Burundi, regardless of whom they are intended for, whether Government or rebels, and freezing the assets in European or American banks of Burundians involved in arms traffic.

72. Finally, at no point should the international community renounce the arsenal of measures available to it under the existing international instruments relating to human rights or to international humanitarian law, including the possibility of resorting to force to put an immediate end to the massacres, killings and other serious forms of human rights violations in Burundi, which fall most of the time upon innocent and defenceless populations. Burundi is a beautiful country whose people desire only to live and prosper among their herds and their fields of cotton, coffee or tea, to fish or develop their trade and industry and, perhaps, to rediscover among Burundians that small core of common virtues and values that enabled their ancestors, Hutu and Tutsi alike, to live together for centuries.

Notes

1/ Bilan du Monde, 1996 edition.

2/ Rwanda and Burundi. The return home: rumours and realities, Amnesty International, International Secretariat, London, 20 February 1996.

3/ The State of Burundi has not, however, made any declaration of intention concerning article 90 of Protocol I (1977) Additional to the Geneva Conventions of 1949.

4/ For its part, the NGO Médicins Sans Frontières states in its November 1995 report that in Burundi the civil populations are massively targeted in armed operations aimed at killing. Apparently, when excesses are committed the number of dead markedly exceeds that of wounded, in contrast to usual armed conflict situations where the ratio is said to be one dead to four wounded. These killings seem to be indiscriminate, in that those most often affected are persons who have no connection with the events serving as a pretext for the violence unleashed. Their indiscriminate nature is confirmed by the age and sex of the victims, among whom, reportedly, children, women and elderly persons always feature prominently. To these killings must also be added mass executions of groups specifically targeted.

5/ As several Burundian intellectuals explain in a study published in the magazine Au coeur de l'Afrique, January-March 1995, pages 55-58, the institution of the Ubushingantahe used to hinge on values such as devotion to truth, experience and wisdom, a sense of the common good, of justice and of equity, a sense of responsibility, of measure and of balance in both word and

deed, as well as devotion to work and self-sufficiency. In other words, the institution was a factor of social cohesion, of order and of conflict-control, and embodied a code of conduct which guaranteed social harmony and stability. For their part, the Bashingantahe were the authentic guardians of social peace. Their function was to remain vigilant so as to preserve social harmony and to contribute to reconciliation and cooperation and to the protection of individuals and property. In the juridical sphere, the Bashingantahe were responsible for settling conflicts, for investigating and deciding cases, for settling litigation, in particular over land or livestock, for reconciling individuals or families in conflict, for authenticating all types of contract (marriage, inheritance, sale, bequests) and for securing safety and justice around them.